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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,720	10/06/2003	Daniel W. Rodlin	03-110	2871

7590 04/21/2005

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EXAMINER

CANFIELD, ROBERT

ART UNIT PAPER NUMBER

3635

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,720

Applicant(s)

RODLIN, DANIEL W.

Examiner

Robert J Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17, 20, 21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17, 20, 21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. This Office action is in response to the amendment filed 01/24/05. Claims 14-17, 20, 21, and 23 are pending. Claims 1-13, 18, 19 and 22 have been canceled.

2. The terminal disclaimer filed 01/24/05 has been approved.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of a welded wire structure being bent to form a hollow channel defined by a top and sides and having corner aides at the corners of the top and sides formed integrally from the welded wire structure must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 20, 21 and 23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The description fails to provides support for an embodiment of a welded wire structure being bent to form a hollow channel defined by a top and sides and having corner aides at the corners of the top and sides formed integrally from the welded wire structure. Each embodiment described formed from welded or woven wire describes attaching separate corner aides. The embodiment (figure 15) described having integral corner aides is described as being formed from rib lath, not welded or woven wire.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 279,011 to Phelps in view of U.S. Patent 4,107,372 to Clausen et al.

Figure 8 of Phelps teaches a woven wire mesh bent to form a top, spaced apart sides and flanges extending oppositely from the side to define a hollow channel absent any other structural support. The channel is adapted to receive and retain a cementitious coating.

Phelps fails to provide that the lath or wire mesh is provided with a paper backing and is of the self furring type.

Clausen teaches that at the time of the invention self furring type of woven wire mesh lath having a paper backing fixed thereto (by hot melt glue) was known in the arts.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the channel of Phelps could have been formed the paper backed wire cloth mesh lath of Clausen. It would have been obvious to have used the paper backed mesh to both provide a moisture barrier and also to limit the amount of cementitious material used.

8. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 279,011 to Phelps as modified by U.S. Patent 4,107,372 to Clausen et al. above further in view of Applicant's disclosure.

Phelps as modified by Clausen provides each of the elements of these claims as noted above except for the provision of corner bead members fixed at the corners of the channel formed by the top and sides.

Page 4 of the instant application discloses in relation to figure 10 C that it was known at the time of the invention to fix corner bead members to corners of lath channels to provide a guide means.

It would have been obvious at the time of the invention to one having ordinary skill in the art that corner bead members could have been fixed to the corners of the channel of Phelps to provide guides for the trowels applying the cementitious material.

9. Applicant's arguments filed 01/24/05 have been fully considered but they are not persuasive.

Applicant argues that none of the Mansfield embodiments teaches an embodiment of a woven wire mesh being bent to form a hollow channel defined by a top and sides and having corner aides at the corners of the top and sides formed integrally from the welded wire structure. As noted in the above 112 first paragraph rejection, there is no support in the instant application for such an embodiment. Each embodiment described formed from welded or woven wire describes attaching separate corner aides. The embodiment (figure 15) described having integral corner aides is described as being formed from rib lath, not welded or woven wire, just as the Mansfield patent.

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As to the argument of Official Notice regarding glue as a suitable means for mounting paper backings to laths, the examiner has provided secondary references as documentary evidence. Namely, U.S. Patent 4,107,372 to Clausen et al.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

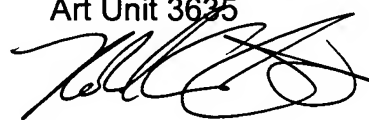
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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 703-308-2482. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
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04/15/05